

Court of Appeals, State of Michigan

ORDER

Sherry Loar v Department of Human Services

Donald S. Owens
Presiding Judge

Docket No. 294087

Patrick M. Meter

LC No. 00-000000

Stephen L. Borrello
Judges

Pursuant to the September 15, 2010 remand order of the Supreme Court, the Court states:

Mandamus is a writ issued by a court of superior jurisdiction to compel a public officer to perform a clear legal duty. *Jones v Department of Corrections*, 468 Mich 646, 658; 664 NW2d 717 (2003). To obtain a writ of mandamus, a plaintiff must have a clear legal right to the performance of the specific duty sought to be compelled, and the defendant must have a clear legal duty to perform the act. *Casco Twp v Secretary of State*, 472 Mich 566, 577; 701 NW2d 102 (2005). The act must be ministerial, and the plaintiff must be without other adequate legal or equitable remedy. *Citizens for the Protection of Marriage v Bd of State Canvassers*, 263 Mich App 487, 492; 688 NW2d 538 (2004). The burden is on plaintiff to prove entitlement to a writ of mandamus. *Id.*

This Court denied plaintiffs' complaint for mandamus because plaintiffs failed to meet their burden of identifying a clear legal right to the performance of a specific, ministerial duty by defendants. Defendants did not have the clear legal duty to ignore the results of the union certification election.

Plaintiffs are actually seeking declaratory and injunctive relief, which are available in other actions. Where other persons who are not state officers are necessary to the determination of this action, jurisdiction lies with the circuit court and not this Court. Plaintiffs have other remedies available, and mandamus is inappropriate.

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 22 2010

Date

Sandra Schultz Mengel
Chief Clerk